

CALIFORNIA COASTAL COMMISSION

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**Tu 15d**

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Staff: AJP-LB
Staff Report: 9/21/01
Hearing Date: 10/8-12/01
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NUMBER: 5-01-143**

APPLICANT: Marina Two Holding Partnership and County of Los Angeles
Department of Beaches and Harbors

AGENT: Roger Van Wert

PROJECT LOCATION: 13900 Marquesas Way (Parcel 12 & 15), Marina del Rey

PROJECT DESCRIPTION: Demolition of an existing 717 slip marina and construction of a 439 slip marina in a different dock and slip configuration within two leasehold parcels. The development includes the removal and replacement of piers, ramps, pilings, and dock floats. A mechanical lift for disabled access will be provided. In addition, five, approximately 2,080 square foot, 13 foot high, floating boater support facility structures containing restrooms, showers, laundry, and vending facilities will be constructed, with one structure on each parcel containing a dockmaster management office.

SUBSTANTIVE FILE DOCUMENTS: Marina Del Rey certified Local Coastal Plan, 1995.

SUMMARY OF STAFF RECOMMENDATION:

The major issues of this staff report include possible impacts upon the California least tern as well as a change to the quantity of berthing slips available in a public recreational marina. Staff recommends **APPROVAL** of the proposed development with nine special conditions including: 1) Revised plans indicating that the slip size distribution provides a minimum of 25% of the total proposed slips at a length of 25 feet or less; 2) construction responsibilities and best management practices; 3) identification of a construction debris disposal site; 4) U.S. Army Corps of Engineers approval; 5) restrictions on the timing of construction; 6) notification of the need to obtain a coastal development permit amendment for any change to the proposed project; and 7) water quality requirements for the construction and

operation of the marina; 8) execution of an assumption of risk; and 9) submittal of a parking plan for boaters.

STAFF RECOMMENDATION:**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR 5-00-096:**

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit #5-01-143 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **REVISED BOAT SLIP LENGTH DISTRIBUTION.**

A. PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised plans that are consistent with the standards of the Department of Beaches and Harbors, for the review and approval of the Executive Director. The plans shall show a revised boat slip size distribution and a revised configuration such that no fewer than 25% of the total boat slips shall be 25 feet or less in length. The applicant may increase the total number of slips to achieve consistency with this requirement as long as the footprint of the marina is the same as that shown in the applicant's initial proposal.

B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. **CONSTRUCTION RESPONSIBILITIES AND DEBRIS REMOVAL**

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, equipment, debris, or waste shall be placed or stored where it may be subject to inundation or dispersion in the waters of the Marina;
- (b) Any and all debris resulting from construction activities shall be removed from the site within 10 days of completion of construction;
- (c) No machinery or construction materials not essential for project improvements shall be allowed at any time in the intertidal zone;

- (d) If turbid conditions are generated during construction, a silt curtain shall be utilized to control turbidity;
- (e) Floating booms shall be used to contain debris discharged into coastal waters and any debris discharged shall be removed as soon as possible but no later than the end of each day;
- (f) Non-buoyant debris discharged into coastal waters shall be recovered by divers as soon as possible after loss; and
- (g) Reasonable and prudent measures shall be taken to prevent all discharge of fuel or oily waste from heavy machinery, pile drivers or construction equipment or power tools into the waters of the Marina del Rey. The applicant and the applicant's contractors shall have adequate equipment available to contain any such spill immediately.

3. LOCATION OF DEBRIS DISPOSAL SITE

PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the applicant shall identify in writing, for the review and approval of the Executive Director, the location of the disposal site of the demolition and construction debris resulting from the proposed project. Disposal shall occur at the approved disposal site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

4. U.S. ARMY CORPS OF ENGINEERS APPROVAL

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director a copy of a permit issued by U.S. Army Corps of Engineers, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the U.S. Army Corps of Engineers. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is required.

5. TIMING OF PROJECT

In order to reduce impacts on the California least tern during nesting and foraging season, no construction activity which may generate noise or turbidity in the water column shall occur during the period commencing March 1 and ending September 15 of any year.

6. FUTURE DEVELOPMENT

This Coastal Development Permit 5-01-143 is only for the development expressly described and conditioned herein. The permittee shall undertake development in accordance with the approved coastal development permit. Any proposed changes to the development, including any change to the sequence of construction, shall be reported to the Executive Director. No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

7. WATER QUALITY MANAGEMENT PLAN

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a detailed Water Quality/Best Management Practices (BMPs) Program for controlling adverse impacts to water quality related to long term water-borne berthing of vessels in the marina. The plan shall be prepared by a qualified professional with expertise in the control of water quality impacts related to marinas.

1. The plan shall demonstrate that long-term water-borne berthing of vessels in the marina shall be managed in a manner which protects water quality and that persons using the marina are made aware of the rules related to boat maintenance and use. To the extent to which physical features or objects (for example, trash containers, recycling bins) are required in the plan, an attached site plan shall show the location where these features or objects will be installed.
2. The plan shall include, at a minimum, the following components or measures:
 - (a) Boat Cleaning Management Measures:
 1. The marina shall prohibit in-water boat hull washing which does not occur by hand;
 2. The marina shall prohibit in-the-water hull scraping or any process that occurs under water which results in the removal of paint from boat hulls;
 3. The marina shall ensure that marina tenants, when washing boats, utilize detergents and cleaning components that are phosphate-free and bio-degradable. Amounts used shall be minimized;
 4. The marina shall prohibit the use of detergents containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates or lye;

(b) Implementation of a solid waste reduction and recycling program including the following Solid Waste Management Measures:

1. Trash receptacles shall be provided at the entrances to all docks;
2. Containers for recyclables shall be provided and sited so that they are convenient for boaters (i.e. close to the dock);
3. All trash and separate containers for recyclables, oil wastes, etc. shall be clearly marked, have the capacity to handle all waste streams, and be sited so that they are convenient for boaters (i.e. close to the dock);

(c) Implementation of a liquid material control program which provides and maintains appropriate storage, transfer, containment and disposal facilities for liquid materials commonly used in boat maintenance including the following Liquid Waste Management Measures:

1. The marina shall provide a secure location to store hazardous wastes, including old gasoline or gasoline with water, absorbent materials, and oily rags;
2. Containers for anti-freeze, lead acid batteries, used oil and used oil filters which will be collected separately for recycling shall be provided by the marina;
3. Signage shall be placed on all regular trash containers to indicate that hazardous wastes may not be disposed of in the container. The containers shall notify boaters as to how to dispose of hazardous wastes and where to recycle certain recyclable wastes;
4. The marina shall maintain an adequate supply of absorbent pads for use by marina tenants and lessees for the cleaning of minor spills.

(e) Fish Waste Management Measures:

1. The marina shall establish fish cleaning areas.
2. The marina shall issue rules governing the conduct and location of fish cleaning operations.
3. The marina shall have programs to educate boaters regarding the importance of proper fish cleaning practices.
4. The marina shall implement fish waste composting where appropriate.

(f) Petroleum Control Management Measures:

1. The marina shall provide a service that reduces oily discharges from in-board engines, either a bilge pump-out facility (with an oil-water separation device) or the marina shall promote the use of oil-absorbing materials in the bilge areas or engine compartments of all boats with inboard engines. When distributing oil absorbents to boaters, the marina shall provide adequate safety warnings as to the safe use and handling of flammable materials and methods to prevent fouling the bilge pump. Oil absorbent materials should be examined at least once a year and replaced as necessary. The marina shall recycle the materials, if possible, or dispose of them in accordance with hazardous waste disposal regulations. The marina environmental policies shall encourage boaters to regularly inspect and maintain engines, lines and hoses in order to prevent oil and fuel spills. These policies shall encourage boaters to use preventive engine maintenance, oil absorbents, bilge pump-out services, or steam cleaning services as much as possible to clean oily bilge areas. The use of soaps that can be discharged by bilge pumps shall be discouraged.

(g) Public Education Measures:

In addition to these specific components outlined in special condition 7.A.2.(a) through (f) above, the BMP program shall also include enforcement provisions, including eviction from the marina and notice of possible civil or criminal fines and/or penalties, to assure compliance with this program by all marina tenants. The marina shall provide information about all of the measures in the BMP program through a combination of signage, tenant bill inserts and distribution of the BMP program to new tenants and each year to repeat tenants. The program shall be posted at the dockmaster's office and at all dock entrances, and be included and attached to all slip lease agreements.

8. ASSUMPTION OF RISK LEASE RESTRICTION

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wave and tidal action; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands,

damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant, Marina Two Holding Partnership, shall execute and record a lease restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The lease restriction shall include a legal description of the applicant's entire parcel. The lease restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This lease restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

9. **BOATER PARKING**

Prior to the issuance of coastal development permit 5-01-019, the applicant shall submit for the review and approval of the Executive Director, a parking plan showing the location of all boater parking. The number of parking spaces provided for boater parking shall be provided at a ratio of .675 or greater, based on the total number of boat slips approved by this permit. Any future change to the number of boater parking spaces will require an amendment to this permit.

IV. **FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

A. **Project Description and Location**

The applicant proposes to demolish an existing anchorage providing 717 slips and construct a new 439 slip marina. All existing dock floats, ramps, and pilings within the main basin will be removed and new floats, ramps, and pilings will be constructed in a new configuration. Sewage pumpout hookups will be available to service all slips. The new anchorage will be a structural wood system with a concrete deck and polyethylene floats. The existing and proposed boat slip lengths are as follows:

<i>Slip Length(ft.)</i>	<i>18 to 25</i>	<i>26 to 35</i>	<i>36 to 50</i>	<i>51 or greater</i>	<i>Total</i>
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Existing	257	328	117	15	717
Proposed	0	225	181	33	439
Change	-257	-103	+64	+18	-278

The new anchorage will utilize five gangways with electronically controlled access gates for boater access. Each access gangway will have a “Ramp Rider” lift system installed to allow disabled access to the docks.

Five on-water, 2,080 square foot, 13 foot high buildings will be constructed as part of the dock system. The buildings will be located at the foot of each gangway. The buildings will contain restrooms, laundry facilities, vending machines and storage area. In addition, one building within each parcel will contain the offices of the dockmaster. The existing parcel coverage by the docks and walkways will increase from 144,435 square feet to 159,011 square feet. In addition, a total of 294 14-inch diameter concrete pilings will be removed and 359 14 to 22-inch diameter piles will be installed.

Parcel 12 is located on Marquesas Way mole road. The parcel extends partially along the south side of Marquesas Way to the eastern end of the road (see Exhibit No. 2). The parcel contains approximately 11 acres of usable water area. Within this 11 acres, there are 464 boat slips. Parcel 15 is located partially along Via Marina and extends to the east along the southern side of the Panay Way mole road (see Exhibit No. 2). The parcel contains approximately 7 acres of useable water area and provides 253 boat slips. Both parcels are situated in the western portion of the marina, in Marina Del Rey.

The proposed marina replacement will be phased so that only portions of the 717 slip anchorage will be out of service at any one time. Phase one will consist of removal of 464 slips and constructing a total of 227 new slips within Parcel 12. After completion of the first phase, the second phase will commence on Parcel 15 removing the 253 existing slips and constructing 212 new slips. After completion of the first phase, the second phase will commence on Parcel 15. Boats using the existing facility will have the opportunity to move to the other available slips. Other available relocation options within Marina del Rey include dry dock facilities and other slips within other anchorages.

The two parcels (landside and waterside) are leased and operated under one ownership: Marina Two Holdings partnership.

B. Areawide Description

Marina del Rey covers approximately 807 acres of land and water in the County of Los Angeles (see Exhibit No. 1-2). Marina del Rey is located between the coastal communities of Venice and Playa Del Rey. The Marina is owned by the County and operated by the Department of Beaches and Harbors.

The existing marina began its development in 1962 when the dredging of the inland basin was completed. The primary use of the Marina is recreational boating. The Marina provides approximately 4,626 boat slips, within approximately 26 separate anchorages. Other boating facilities include transient docks, a public launching ramp, repair yards, charter and rental boats, harbor tours, and sailing instruction schools. Other recreational facilities include: Burton W. Chase Park, Admiralty Park, a public beach and picnic area, bicycle trail, and limited pedestrian access along the marina bulkheads and north jetty promenade. Along with the recreational facilities, the Marina is developed with multi-family residential projects, hotels, restaurants, commercial, retail and office development.

Within the Marina, most structural improvements have been made by private entrepreneurs, operating under long-term land leases. These leases were awarded by open competitive bids in the early and mid-1960's. The developers were required to construct improvements on unimproved parcels in conformance with authorized uses designated in their leases and pursuant to a master plan for the Marina. Most leases will expire after 2020. Within the existing marina, development has occurred on all but one leasehold parcel. This development is generally referred to as Phase I development. Recycling, intensification, or conversion of these initial uses on leased parcels is referred to as Phase II development.

C. Previous Commission Action on Site

On February 13, 2001, the Commission heard an appeal of the Los Angeles County approved local Coastal Development Permit no. 98-134(4), for a project located at 13900 Marquesas Way (Parcel 12) and 4242 Via Marina (Parcel 15), in Marina del Rey. The Commission found that the appeal raised no substantial issue with respect to the grounds on which it had been filed.

The proposed development was for the landside development for Parcel 12 and 15. The proposed development included a two-phased development project, as follows: (Phase I) Parcel 12: Demolition of 120 residential units, 5,600 square feet of commercial office space; and construction of a 437-unit apartment complex including 35 very low-income senior citizen units; 2,000 square feet of visitor-serving commercial space; and 969 parking space garage. (Phase II) Parcel 15: Demolition of 288 residential units, 4,400 square feet of restaurant space; and construction of a 585-apartment complex including 47 very low-income senior citizen units; 8,000 square feet of visitor-serving commercial space; and 1,271 parking space garage. Both parcels will provide an eighteen foot wide public promenade along the bulkhead.

D. Public Access and Recreation

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30224 of the Coastal Act states:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

Section 30234 of the Coastal Act states:

Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by . . . (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation

The proposed project is located between the nearest public road and the sea as well as within coastal waters. The project is the demolition of a public boating marina and reconstruction of a new marina in a different configuration. In addition, five boater support facilities will be provided on the floating docks to provide boater amenities.

The existing and proposed marina is a privately operated facility with berthing slips available to the general public on a month-to-month basis for a fee. The proposed project does not include any proposed change to the method of leasing. Upon completion of the proposed development, the marina slip leases will remain available to the general public. However, consistent with the practice of most marinas statewide, for safety and security reasons, the general public will not be allowed to walk along the gangways, docks or slips. The general public will have access only to the public promenade, which will afford views of the boats and the water.

The proposed project includes reconfiguring the docks and slip size distribution. The slip size distribution will change as follows:

<i>Slip Length(ft.)</i>	<i>18 to 25</i>	<i>26 to 35</i>	<i>36 to 50</i>	<i>51 or greater</i>	<i>Total</i>
<i>Existing</i>	257	328	117	15	717
Proposed	0	225	181	33	439
<i>Change</i>	-257	-103	+64	+18	-278

The existing slip configuration contains 257 slips or 36% of the total slips that are 25 foot or less. The proposed slip distribution will eliminate slips 25 feet and under, reduce by approximately one third the number of slips between 26 and 35 feet, and increase the number of slips longer than 35 feet by approximately 60%. The slip size distribution in Marina del Rey and other marinas is important in terms of recreational boater access since pricing is based on the size of the slip. Slip rates in Marina del Rey range from an average of approximately \$10.00 to \$16.00 per linear foot of dock. Rates for the existing anchorage range from \$7.00 to \$11.00 per linear foot. With the elimination of the smaller slips, small boat owners will be forced to rent larger slips at higher rental rates, store their boats on land, or compete for the limited number of available boat slips in the marina.

The modification of slip size distribution are due to several factors. The existing marina was constructed over 30 years ago and new or reconstruction of new marines are required to comply with the current Layout and Design Guidelines of the California Department of Boating and Waterways. Incorporation of the current design requirements will result in

fewer slips being redeveloped in any given water space. Slip size distribution will require more water space within marina basins to be used for floating walkways, finger floats, increased berth sizes and greater fairway widths (area between interior channels and berths). Marinas have been increasing berth sizes to accommodate the wider power boat widths in order to provide the greatest flexibility for berthing of recreational boats (sailboats and power boats). Another factor is the design requirements imposed under the Americans with Disabilities Act (ADA), which requires width docks and longer access ramps.

Currently, of the approximate total 4,626 boat slips provided within Marina del Rey, 32% of the slips are 25 feet or under, and 80% of the total boat slips are 35 feet or under. The applicant has indicated that the demand for the smaller slips have been declining locally and regionally. According to a study (*Marina Del Rey—Boat Slip Sizing and Pricing Study*, April 20, 2001) prepared for the Los Angeles County Department of Beaches and Harbors, vacancies are generally higher for boats slips under 36 feet than for boats slips 36 feet and longer. For Marina del Rey, the study indicates that the overall average vacancy is approximately 9%. In 2000, a marina wide survey showed that the vacancy rate of slips less 36 feet was approximately 7% while the vacancy rate for boats 36 feet and larger than 2%.

Regionally, since the early 1990's marinas have been reconfiguring their slip sizes distribution to favor larger boats—boats 36 feet and larger. In the early 1990's, Ventura Isle Marina, in the City of Ventura, reduced their total number of slips from 597 slips to 467, and reduced the slips 25 foot and under from 26% to 9% of the total. The average slip size increased from 31.9 to 38.2 feet (Coastal Development Permit No. 4-91-55).

Cabrillo Harbor, in the San Pedro area of the City of Los Angeles, provides two marinas: Cabrillo Marina and Cabrillo Way Marina. Under a Port of Los Angeles coastal permit, Cabrillo Way Marina was recently reconfigured reducing the number of slips from 625 to 614. Slips that were 25 feet and under, and originally constituted 18% of the total were eliminated. Cabrillo Marina provides no slips 25 feet or under. The average slip size increased from approximately 34.5 to 42 feet.

In 1999, Sunset Harbor Marina (i.e. Sunset Aquatic Park) in Seal Beach, reduced the total number of slips from 255 to 240. Slips that were 25 feet and under, which constituted approximately 30% (78) of the total, was reduced to 40 or 16% of the total. Slips 35 feet and larger were increased with the overall slip length increasing from 30.5 to 32.8 feet (Coastal Development Permit No. 5-99-244).

Although the trend for new and redeveloped marinas is for larger boats, the data indicates that in Marina del Rey, there continues to be a demand for slips that are 25 feet or less. Of the 431 average total vacancies marina-wide in the year 2000, 155 or 3% of the 4,626 total slips throughout the marina were slips 25 feet or less. Vacancies within the 26-35 foot range averaged approximately 4% of the total marina-wide slips. Slips larger than 35

represent approximately 1.3% or 68 slips of the total slips in the marina. Although slips less than 36 feet represent the largest vacancy, the number of vacancies indicate that there is a demand within Marina del Rey for boats 25 feet or less in length. As the trend for larger boats continues and marinas convert their small boat slips to larger slips anchorage opportunities for the small boat owner will be reduced.

While it is difficult to contend that recreational boating is in fact a lower cost recreational activity, in general, smaller boats less expensive, and therefore more available to a larger segment of the population than are larger boats. The Commission has heard testimony contending that reduction in the availability of slips to accommodate smaller boats reduces this option for those who want to own boats and use them, but can not afford a larger boat or even a larger slip. Moreover, if the trend continues as noted above, small boat owners will not be able to find slips of a size that is appropriate for their boats. Cumulatively, this reduction would not be consistent with Coastal Act provisions that encourage lower cost facilities and support of recreational boating opportunities.

Currently, there are approximately 1,616 slips that are 25 feet and under located throughout Marina del Rey. This amount represents 35% of the 4,626 total slips. The proposed project will reduce the marina's slips that are 25 foot or under to approximately 29%. Based on last years vacancy rates for Marina del Rey, there are approximately 155 available slips in the 25 foot range. The displacement created by the proposed project will significantly impact the available supply of small slips.

Although market trends indicate that boats are getting wider and larger, data for Marina del Rey supports a need for the smaller slip sizes, and there continues to be a demand for 25 foot and under slips. Furthermore, boat ownership and boat recreation is based on a number of factors, including economics and population growth. As the economy grows, more and more people have greater disposable income, which can be used to purchase boats and to pay for the anchorage fees. Furthermore, as southern California's population continues to increase, boat sales could also increase and increase the demand for anchorages in all slip lengths. Therefore, it is important to ensure that anchorages continue to provide a mix of slip lengths to provide a full range of boating opportunities for all boaters.

A large number of anchorages in Marina del Rey are reaching, or have reached, their useful life expectancy. At this time, there are currently two pending applications before the Commission, this one and application no. 5-01-019 (Marina Pacific Partnership). Marina Pacific Partnership is proposing to continue to provide 25 foot and under slips. However, other anchorages will also need to rebuild and possibly reconfigure their slips in the near future. If these additional anchorages were to eliminate or reduce their number of small slips, the cumulative impact to the small boat owner in Marina del Rey could be significant.

In discussions with the County, the County has indicated that they plan on maintaining a minimum 25% of the total number of boat slips that are 25 foot throughout the entire marina. The Commission finds that in order to ensure that 25% is maintained all individual marinas within Marina del Rey should maintain a mix boat slip lengths, and provide a minimum of 25% of the provided slips within the 25 foot range. This will protect the small boat supply throughout the marina and provide greater boating opportunities. Therefore, to ensure that the Marina will continue to provide a mix of slip sizes to provide small recreational boat owners an opportunity to anchor their boats within the Marina, this permit is conditioned to require the applicant to provide at least 25% of the total slips proposed at a length of at least 25 feet. Based on the total number of slips proposed, 25% would be 109 slips. However, due to a need to reconfigure the marina, based on the required 25%, the total number of slips may increase. The applicant shall provide revised plans showing the reconfigured layout incorporating 25% small slips (25 feet or under) and the total number of slips. As conditioned, the project will be consistent with Sections 30210 and 30213 regarding maximum access and the provision of lower cost recreational facilities.

The proposed marina replacement will be phased so that only portions of the 717 slip anchorage will be out of service at any one time. Phase one will consist of removal of 464 slips and constructing a total of 227 new slips within Parcel 12. After completion of the first phase, the second phase will commence on Parcel 15 removing the 253 existing slips and constructing 212 new slips. Boats using the existing facility will have the opportunity to move to the other available slips during construction of each phase. Other available relocation options within Marina del Rey include dry dock facilities and other slip vacancies within other anchorages. The applicant has provided notice to the boating tenants and has been working with the tenants in finding available slips for relocation. As proposed, the applicant has taken measures to minimize the impact due to displaced boats during construction. The impact to the supply of boat slips within the marina will be short-term and will not be significant.

In addition to the slip size reduction, the applicant is proposing five boater-only access boating support facilities for marina tenants of this marina. The facilities will include restrooms, showers, and laundry facilities. Two of the facilities, one on each parcel, will include an administration office. Three of the facilities will be located on Parcel 12 and the remaining two will be located on Parcel 15. Approximately 95% of the slips will be within 350 feet of a restroom. The remaining 5% are within 600 feet. There are no existing publicly accessible restrooms currently on the parcels (waterside or landside) and the redevelopment of the parcels do not include public restrooms.

The upgrading of the marina will enhance the anchorage and improve recreational boating in the Marina del Rey harbor as a whole. The proposed, as conditioned, will include a mix of recreational boat slip lengths from 25 to over 51 feet in length. The distribution of boat slip lengths will provide the small boat owner to the large boat owner an opportunity to anchor in the marina. Furthermore, the upgrading of the docks will encourage recreational boating use of

the marina. As proposed, the project will be consistent with Sections 30213, 30224, and 30234 of the Coastal Act.

Parking

Boater parking is being reconstructed and provided on both parcels. The parking is needed to support of the landside development approved under the County's coastal development permit [no. 98-134-(4)] and the proposed waterside development. The existing anchorage has 464 boat slips within Parcel 12 and 253 boat slips within Parcel 15. Parcel 12 currently provides 301 parking spaces or .54 parking spaces per slip in support of the boat slips. Parcel 15, currently provides 189 parking spaces for boater use or .74 parking spaces per slip. The applicant is proposing to reduce the number of boat slips to 439 boat slips and provide parking at a ratio of .675, consistent with the County's certified LCP standards.

The LCP requires parking for boat slips at a ratio of .75 spaces per slip but allows a reduction to .675, if the parcel is developed with residential units. The landside development approved by the County was for residential development. Therefore, under the certified LCP the applicant could provide parking at a ratio of .675. These ratios are consistent with past Commission permit actions for the marina. Furthermore, the County's coastal development permit is conditioned to require the applicant to submit final project parking plans. The condition requires that the parking be consistent with the certified Local Coastal Program. In the event the boat slip application is not approved by the Commission or the number of slips allowed to be reduced is fewer than proposed, the County's condition requires the applicant to submit revised parking plans that would ensure that the parking for the landside and waterside is adequately provided consistent with the certified LCP.

The applicant contends that the originally proposed project in the EIR was designed with 2,460 parking spaces, or 220 spaces more than currently approved by the County's permit. The reduction was due primarily to a reduction in units and the conversion of space previously allocated to parking to storage and other ancillary uses. However, the footprint and subterranean parking structure remains basically the same. Therefore, in the event that the boat slip component is not approved by the Commission, the project's parking layout could be modified within the proposed layout, to provide parking for 643 slips based on County's current parking standards. Six-hundred and forty-three slips is the number of slips that the applicant could rebuild if it maintained current ratios of small and large boats, but followed current Department of Boating and Waterways slip width standards.

Therefore, the parking provided to support the proposed number of boat slips is adequate. In the event the required redistribution of the slips, as conditioned by this permit, increases the number of slips, the applicant could physically provide additional parking on-site to meet the required parking ratio of .675 per boat slip. However, to ensure that the project maintains an adequate number of parking for recreational boating under this permit, a condition to require that the applicant maintain a minimum of .675 parking spaces per boat

slip is necessary. As conditioned, the project will provide adequate parking such that overflow parking will not impact other public recreational parking in the Marina del Rey area that supports public facilities in the Marina. The project will be consistent with Sections 30210 and 30252 of the Coastal Act.

E. Marine Resources

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240(b) of the Coastal Act states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The Commission has reviewed numerous reports concerning the impacts of chemical pollution and siltation on marine organisms and on coastal recreation. In addition, given the location of the proposed work within a marina supporting both sensitive species and recreational activities there are concerns about how the work may be performed. In

response to these concerns the Commission has begun to impose conditions on development to prevent siltation, spills and pollution as a result of development.

1. Water Quality and Construction Impacts

The proposed project is the demolition of an existing marina and construction of a new marina located in coastal waters. Due to the proposed project's location on the water, the proposed work may have adverse impacts upon water quality and the marine environment.

In order to assess impacts upon water quality, the proposed project was submitted to the U.S. Army Corps of Engineers for their review and approval. The Corps determined that water quality would not be affected by the proposed project if the applicant implements proposed best management practices to minimize the dispersal of silt, debris, and chemicals. The best management practices include the use of turbidity screens/siltation curtains to isolate work area during pile removal and installation, floating booms to contain debris or spills, recovery of any non-buoyant debris by divers as soon as possible after loss. The Commission finds that since construction of the proposed project requires the use of best management practices to minimize impacts upon water quality, the Commission imposes a special condition requiring the applicant to utilize best management practices including those described above. In addition, the Commission finds it necessary to identify the following other construction related responsibilities: all construction materials and equipment shall be stored landward of the bulkhead, on impervious surfaces only; all construction materials or waste shall be stored in a manner which prevents their movement via runoff, or any other means, into coastal waters; and that any and all construction equipment, materials and debris are removed from upland areas at the conclusion of construction. In addition, demolition of existing structures will generate debris that will need to be disposed of off-site. Since the applicant has not identified a disposal site and in order to prevent impacts to coastal waters, the Commission imposes a special condition which requires that all demolition debris be disposed of at a legal site approved by the Executive Director. Choice of a site within the coastal zone shall require an amendment to this permit or a new coastal development permit.

The proposed project will include a vessel pumpout system that will allow each vessel to be pumped out from its berth. The system includes a central vacuum-type vessel sewage pumpout system with inlet connection points at each berth. The proposed pumpout system will be designed, constructed and operated in accordance with all applicable governmental regulations. Accessibility of the pumpout stations will encourage and facilitate the proper disposal of sewage.

The proposed project will maintain the present use and is not expected to create additional adverse impacts on marine resources. However, the Commission finds it necessary to identify the permittee's responsibilities regarding construction and the utilization of best

management practices and has conditioned the project accordingly. Therefore, only as conditioned does the Commission find that the proposed project conforms with Sections 30230 and 30231 of the Coastal Act.

2. Sensitive Species Impacts

According to the EIR that was prepared for the overall redevelopment of the development site, there are no special status benthic invertebrate, fish, insects, reptiles or mammals occurring in the marine portions of the project site. However, special status birds were observed or are expected to utilize open water habitat present in the marina and on the project site. Such birds include the California Brown Pelican, Peregrine falcon, Great blue heron, and the California Least Tern.

While there has been some nesting habitat identified in trees in the Bird Sanctuary and along one mole that is located adjacent to identified wetlands, with these two exceptions, there is little suitable breeding or nesting habitat for birds or mammals available within the Marina del Rey. However, the California least tern (*Sterna antillarum brownii*) nests at nearby Venice Beach. Least terns feed on small fish directly under the water surface. They have been observed to use all portions of the Marina del Rey harbor for foraging. Construction activity, such as pile driving, may cause turbidity in the water column which would affect foraging species ability to see food normally visible in the water. In addition, pile driving would generate noise in the water column that would disturb fish and other species normally present upon which foraging least terns would normally feed.

The Department of Fish and Game has reviewed the proposed project and determined that the proposed activity would not have a significant adverse effect on existing marine resources and habitats, provided no open water activities that have the potential to create water turbidity or excessive noise and vibration (e.g. pile driving) occur during the tern season and the use of silt curtains are implemented (see Exhibit No. 9). The Department of Fish and Game and U.S. Army Corps of Engineers concurs with the applicant's construction activity restriction between April 1 through September 1, in order to avoid adverse impacts to the tern's foraging.

Therefore, in order to ensure that adverse impacts are avoided, the Commission finds that it is necessary to impose a condition which prohibits pile driving activity, between April 1 and September 1 of any year during which construction occurs, that would impact foraging species in the area. Construction activity that does not create turbidity or excessive noise, such as float assembly, is permitted during this time. Evidence of final approval from the U.S. Army Corps of Engineers will pinpoint for the Commission whether such approvals have any effect upon this coastal development permit approval. Therefore, the Commission imposes a special condition which requires that the applicant submit evidence of approval from the U.S. Army Corps of Engineers prior to commencement of construction.

Other marine resources that could be impacted by the development is Eelgrass (*Rupia maritima*). Eelgrass is considered worthy of protection because it functions as important habitat for a variety of fish and other wildlife, according to the Southern California Eelgrass Mitigation Policy (SCEMP) adopted by the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (USFWS), and the California Department of Fish and Game (CDFG).

The applicant has submitted an eelgrass survey dated March 19, 2001, titled *Marina Two Holding Partnership Eelgrass (Zostera marina) Surveys*. The results of the survey indicate that eelgrass is not present in the area of the proposed marina-related construction that is the subject of the application.

As conditioned, the Commission finds that the proposed project would eliminate significant adverse impacts to marine resources and sensitive species such as the least tern. Therefore, the Commission finds that, as conditioned, the proposed project is consistent with Sections 30230, 30231 and 30240(b) of the Coastal Act.

3. Fill of Coastal Waters and Loss of Marine Habitat

The proposed project will involve the removal of 294 dock float guide pilings and the placement of 359 concrete guide pilings in open coastal waters. These dock float guide piles constitute fill of open coastal waters. More specifically, the existing 294 pilings to be removed constitute approximately 314 square feet of fill, while the proposed pilings have a total fill of 561 square feet, for a total increase of 247 square feet of fill of open coastal waters with pilings. Under Section 30233 of the Coastal Act, fill of open coastal waters is only allowed when several criteria are met, including (a) the project must fall within one of the use categories specified; (b) the proposed project must be the least environmentally damaging alternative; and (c) feasible mitigation measures to minimize adverse environmental effects must be provided. Section 30233 of the Coastal Act states, in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following...

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities...

The proposed project meets the first criteria because it is the replacement of an existing public boating facility. Fill of open coastal waters for the construction of a public boating facility is an allowable use under Section 30233(a)(4) of the Coastal Act.

Next, the proposed project is the replacement of a boating marina in a different configuration. Alternatives to the proposed project include no project, no change to the existing configuration, or a change to the proposed configuration.

Under the no project alternative, the applicant could only pursue simple maintenance repair activity. However, simple maintenance repair could not feasibly repair the docks, nor bring them up to present engineering and safety standards. Simple maintenance would only prevent further deterioration of the docks. In addition, marine habitat would not significantly benefit from the no project alternative since this alternative would necessitate that the structure remain in place. Continued, safe use of the facility for marine recreational purposes would be precluded without replacement of the dock system.

The second alternative, replacement of the project in the same configuration would not reduce the number of pilings required. The proposed project is within the same footprint as the existing marina. However, modern engineering standards require a larger number of pilings. Therefore, even if the marina were demolished and reconstructed in the same configuration, the number of proposed pilings would increase over what is currently existing.

Under the proposed alternative, the dock and guide piling layout is changing from the existing layout. However, the number of proposed pilings is the minimum necessary to adhere to present engineering standards. Furthermore, it should be noted that the installation of the new pilings will result in temporary disturbance to the existing vertical substrate. The guide pilings provide a vertical substrate for mollusks and other marine organisms. However, the proposed project will replace and increase the quantity of vertical substrate upon which mollusks and other marine organisms may settle. Therefore, no long-term impact will occur to this habitat. Therefore, the proposed project is the least environmentally damaging, feasible alternative, and includes feasible mitigation measures, such as limiting pile driving to avoid critical periods and construction measures to limit turbidity, to minimize adverse environmental effects. The proposed project will result in the fill of open coastal waters for a boating facility, which is an allowable use under Section 30233 of the Coastal Act. In addition, the proposed project is the least environmentally damaging alternative, and does provide feasible mitigation measures. Therefore, the Commission finds the proposed project is consistent with Section 30233 of the Coastal Act.

F. Visual Impacts

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 states that new development shall:

(5) where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The proposed project is located on the water in the western portion of the marina. The landside portion of the site will be developed with residential units and commercial development and a pedestrian promenade along the bulkhead of the marina. The Land Use category for the project site is designated Water in the LCP. The LCP provides that the height of development located on parcels designated as Water parcels is limited to 15 feet above the water surface.

In addition to the new docks, the applicant proposes to construct five floating boater-support facilities as part of the dock system. Each structure will measure approximately 2,080 square feet in area and 13- feet high as measured from the dockline and approximately 14.5 feet above the waterline. Since the buildings float atop the water, the height, as measured from the top of the Marina's bulkhead, varies depending on the tide. The building will vary from a minimum of approximately 5 feet to a maximum of 10 feet above the Marina's bulkhead.

One of the major issues the Commission dealt with in certifying the LCP was development height and the protection of public views of the marina. To protect views of the harbor, the LCP provides height standards for waterside and landside development. The Commission approved building heights that varied from 25-75 feet for landside lots along the waterfront to 225 feet for specific lots located further away from the waterfront. The heights of development depended on the provision of view corridors to the water by the development through the development's property. The size of the view corridors was based on a complicated formula. The view corridors varied from twenty percent up to forty percent of the parcel's water frontage, depending on the height of the development. The view corridors ensure that views of the Marina are enhanced, preserved and protected.

The proposed structures will be located outside of the planned view corridors designated by the County's approval. Furthermore, the planned pedestrian promenade approved by the County will provide approximately 4,000 linear feet of pedestrian access and viewing along

the marina bulkhead. The proposed boater-support buildings, which will be approximately 112 feet in length, will occupy a total of 560 linear feet, or 14% of the total linear water area along the bulkhead. To ensure that views of the marina's waters and scenic resources were further protected and preserved, the LCP limits the height of development built on the water (designated as Water category parcels in the LCP), to a maximum height of 15 feet. The 15 foot height limit maintains a low profile for allowable water dependent structures, such as boating-related equipment storage structures, bait shops, and other marine commercial buildings, and protects public views of the marina's scenic resources from areas such as public walkways located atop the bulkhead and surrounding streets.

As proposed, the project will be within the 15 foot height limit and is consistent with the LCP height limit for "Water" category parcels and with existing development on "Water" category parcels. Furthermore, as proposed, the project will not adversely impact views of the Marina. The Commission, therefore, finds that the proposed project is consistent with the visual resource protection policies of the Coastal Act.

G. Hazards

Section 30253 of the Coastal Act provides in part:

New Development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazards.*

The proposed dock system will be designed in accordance with the County's building code for docks to ensure structural integrity. However, because of its location, the docks are potentially subject to the affects of tsunamis and seiches. The LCP indicates that Marina del Rey has sustained only minor damage in the past due to tsunami and seiches because of special design standards embodied in the moles, docks and breakwater. However, there remains the potential for damage from wave and tidal action. Therefore, the Commission finds that the applicant must also record a lease restriction assuming the risk of developing in a area where an extraordinary potential for damage e from wave and tidal action exists as an inherent risk to life and property, waiving the Commission's liability for damage that may occur as result of such hazards. This is necessary because the design is a result of a study for which the applicant and its engineer are responsible. Wave hazards cannot be predicted with certainty, so the applicant and future owners must be put on notice that the Coastal Commission is not liable for damages resulting from wave and tidal action.

H. Local Coastal Program

In 1984, the Commission certified the County's Land Use Plan portion of the Marina del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of undeveloped land, which was a portion of the County's LCP area located south of Ballona Creek and east of Lincoln Boulevard (known as Area B and C). Subsequent to the City's annexation, the City submitted the identical Land Use Plan (the Playa Vista segment of the City's Local Coastal Program) covering the City's portion of the original County LCP area. The Commission certified the Land Use Plan Amendment for the annexed area with suggested modifications on December 9, 1986. The County also resubmitted those portions of their previously certified LUP that applied to areas still under County jurisdiction, including the area known as Area "A", and the existing Marina. The Commission certified the County of Los Angeles' revised Marina del Rey land Use Plan on December 9, 1986.

On September 12, 1990, the Commission certified an Implementation Program pertaining to the existing marina, with suggested modifications. The undeveloped area in the County, Playa Vista Area "A" was segmented from the marina and no ordinances were certified for the area. After accepting the suggested modifications, the Commission effectively certified the Marina del Rey LCP and the County assumed permit issuing authority.

In 1995, the County submitted an amendment to the LCP. In May 1995, the Commission certified the LCPA with suggested modifications. The County accepted the modifications and the LCP was effectively certified. The revised 1995 LCP represented a major change in the county's approach to Marina del Rey development. Abandoning the bowl concept, which limited height on moles and next to the water, the County presented the Commission with a redevelopment plan that allowed greatly increased heights if and when developers provided view corridors over no less than 20% of the parcel. Increased height would be contingent on the provision of increased views. Secondly, the County agreed that at the time of renegotiations on of the leases, the lessees would be required to reserve a 18 foot wide promenade /fire road along the water that would be open to the public.

The certified LCP designates the proposed site as "Water". Under the "Water" category of the LCP the permitted uses are recreational uses, wet boat slips, docking and fueling of boats, flood control and light marine commercial. The proposed use is a permitted use. However, the proposed development is located seaward of the mean high tide and is within the Commission's original permit jurisdiction. The standard of review for development within the Commission's original permit jurisdiction is the chapter three policies of the Coastal Act. The County's certified LCP is advisory in nature and may provide guidance for development. As stated in the preceding sections, as conditioned, the project will not adversely impact coastal and marine resources or coastal access. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act.

I. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

Potential impacts are to boater access, marine resources, water quality and the visual resources of the area. As conditioned, all potential adverse impacts have been adequately mitigated. As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.